

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR MARION COUNTY

LATINO BUSINESS ALLIANCE;  
JOSE GONZALES; DALTAZAR  
MOLINA,

Plaintiffs,

vs

SALEM KEIZER SCHOOL  
DISTRICT 24J, SHEMA FAGAN,  
OREGON SECRETARY OF STATE,

Defendants.

Case No. 22CV37151

SUMMONS

TO: Salem Keizer School District 24J  
c/o Christy Perry, Superintendent  
2450 Lancaster Drive NE  
Salem, OR 97305

## NOTICE TO DEFENDANT:

## READ THESE PAPERS CAREFULLY!

You must “appear” in this case or the other side will win automatically. To “appear” you must file with the court a legal document called a “motion” or “answer.” The “motion” or “answer” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff’s attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org) or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

November 30, 2022

/s/ S. Matthew Lind

**S. Matthew Lind, OSB No. 081403**

Lead Trial Attorney for Plaintiff

OlsenDaines

3995 Hagers Grove Road SE

Salem, OR 97317

[mlind@olsendaines.com](mailto:mlind@olsendaines.com)

Telephone: 503-540-6100

Fax: 503-362-1375

1  
2 STATE OF OREGON       )  
  ) ss:  
3 County of Marion       )

4 I, the undersigned attorney of record for plaintiff, certify that the foregoing is an  
5 exact and complete copy of the original summons in the above-entitled cause.

6  
7 November 30, 2022  
8  
9

10                               /s/ S. Matthew Lind  
11                               **S. Matthew Lind, OSB No. 081403**  
12                               Lead Trial Attorney for Plaintiff  
13                               OlsenDaines  
14                               3995 Hagers Grove Road SE  
15                               Salem, OR 9717  
16                               mlind@olsendaines.com  
17                               Telephone: 503-540-6100  
18                               Fax:           503-362-1375

19 TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are  
20 hereby directed to serve a true copy of this summons, together with a true copy of  
21 the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to  
22 whom or which this summons is directed, and to make your proof of service upon a  
23 document which you shall attach hereto.

24  
25 November 30, 2022  
26  
27

28                               /s/ S. Matthew Lind  
                              **S. Matthew Lind, OSB No. 081403**  
                              Lead Trial Attorney for Plaintiff  
                              OlsenDaines  
                              3995 Hagers Grove Road SE  
                              Salem, OR 9717  
                              mlind@olsendaines.com  
                              Telephone: 503-540-6100  
                              Fax:           503-362-1375

1  
2  
3  
4  
5  
6 IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
7 FOR MARION COUNTY  
8

9  
10 LATINO BUSINESS ALLIANCE; JOSE  
GONZALES; DALTAZAR MOLINA,

11 Plaintiffs,  
12

13 vs.  
14

15 SALEM KEIZER SCHOOL DISTRICT  
24J, SHEMA FAGAN, OREGON  
16 SECRETARY OF STATE,

17 Defendants.  
18

Case No. 22CV37151

COMPLAINT PURSUANT TO 42 USC §  
1983 FOR DECLARATORY RELIEF  
AND INJUNCTION

19 Plaintiffs bring this action pursuant to 42 USC § 1983:  
20

21 PARTIES

22 1.

23 Plaintiffs are Hispanic residents, voters, and tax payers of Salem Keizer  
24 School District 24J. Plaintiffs are residents of school board zones 2, 5, and 7.

25 2.

26 The Latino Business Alliance is a Hispanic/Latino organization representing  
27 Hispanic interest in Salem/Keizer school district zones 2, 5, and 7.  
28

3.

1  
2 At all times material herein, the Salem Keizer School District 24J  
3 (hereinafter “the district) is the governmental organization providing public  
4 education in for the cities of Salem and Keizer Oregon.  
5

6 4.

7 Shemia Fagan is the Oregon Secretary of State and is responsible for the  
8 supervision of elections to include the election of candidates for school board  
9 directors in the Salem Keizer School District.  
10

11 FACTS

12 5.

13 The district is administered by a board of seven elected school board  
14 directors that lead the district. Salem-Keizer School Board is responsible for the  
15 hiring of the superintendent, adopting the annual budget, and negotiating  
16 collective bargaining agreements with District staff.  
17  
18

19 6.

20  
21 The school board directors represent seven zones in the district. There is  
22 one director for each zone. Candidates for school board must live within the zone  
23 where they run for election.  
24

25 7.

26 In the current voting structure for board positions, everyone who lives in the  
27 Salem-Keizer school district votes on all candidates. This system is called “at-large  
28



1  
2 voting” so that elected officials are chosen by the voters of the entire district rather  
3 than from separate zones where they live.  
4

5 8.

6 Although, pursuant to the 2020 Census, the school board is making changes  
7 to the current zones to make sure that each zone has a similar number of people,  
8 the current and proposed zones have a disproportionate number of Hispanic/Latino  
9 persons. Specifically, Zones 2, 5, and 7 are disproportionately Hispanic/Latino.  
10  
11

12 9.

13 The board currently is considering two alternative plans; however, neither of  
14 these plans addresses the disproportionate “at-large voting” procedure used by the  
15 district to elect school board directors.  
16  
17

18 10.

19 Hispanic/Latino population in Zones 2, 5, and 7 is significantly  
20 disproportional to white population in these zones.  
21  
22

23 11.

24 In zone 2 Hispanic/Latino persons are 15,702 out of 37,630 total (41.7%). In  
25 district 5 Hispanic/Latino persons are 14,118 out of a total of 38,093 (37.1%), and  
26 in district 7 Hispanic/Latino persons are 14,840 out of a total of 38,153 (38.9%).  
27  
28

12.

In the district as a whole, Hispanic/Latino persons are 25.5%, but in these three zones they are at or near 40%.

42 USC § 1983 CLAIM

13.

Plaintiffs assert that the system of “at large” voting inhibits or tends to impair Hispanic/Latino voters’ ability to elect their preferred candidates and dilutes Hispanic/Latino voting strength in violation of their federal right pursuant to Section 2 of the Voting Rights Act., 52 U.S.C. §10301 (a) (b) (the VRA).

14.

Section 2 of the VRA states, in part: “No voting qualification or prerequisite to voting or standard practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color..,”

15.

Hispanic/Latino persons voting rights are also being violated pursuant to Oregon law. Oregon has adopted its own version of the VRA in ORS 255.406(1) (a) which states:

///

///

1  
2 “A qualifying district election may not be conducted in a manner that  
3 impairs the ability of members of a protected class to have an equal  
4 opportunity to elect candidates of their choice or an equal opportunity  
5 to influence the outcome of an election as a result of the dilution or  
6 abridgment of the rights of electors who are members of that protected  
7 class.”

8  
9 16.

10 Hispanic persons living in the aforementioned zones have or will continue to  
11 have their voting rights improperly diluted because of the “at-large” method of  
12 electing school board directors, in violation of Federal and State law.

13 WHEREFORE: Plaintiffs seek a judgment of this court,

14 Declaring the “at large” voting method of electing school board directors  
15 violates Section 2 of the Voting Rights Act of 1965, as amended (the VRA), as well  
16 ORS 255.406 (1) (a), and,

17  
18 Entering an order enjoining the Board from employing “at large” voting as a  
19 method in future elections and directing the Board and the Secretary of State to  
20 administer such elections in a manner that complies with Section 2, of the Voting  
21 Rights Act of 1965 and ORS 255.406 (1)(a), and,

22  
23  
24 ///

25  
26 ///

27  
28 ///



1  
2 Awarding plaintiff's costs, disbursements, and attorney fees incurred herein  
3 pursuant to 42 U.S.C. § 1983.  
4

5 For other relief as the Court seems just.  
6

7 October 28, 2022

/s/ James D. Vick

**James D. Vick, OSB No. 72273**

Trial Attorney, Of Counsel

Olsen Daines, PC

3995 Hagers Grove Road SE

Salem, Oregon 97317

Phone 503-540-6100

Fax 503-362-1375  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR MARION COUNTY

LATINO BUSINESS ALLIANCE; JOSE  
GONZALES; DALTAZAR MOLINA,

Plaintiffs,

vs.

SALEM KEIZER SCHOOL DISTRICT  
24J, SHEMA FAGAN, OREGON  
SECRETARY OF STATE,

Defendants.

Case No. 22CV37151

COMPLAINT PURSUANT TO 42 USC §  
1983 FOR DECLARATORY RELIEF  
AND INJUNCTION

Plaintiffs bring this action pursuant to 42 USC § 1983:

PARTIES

1.

Plaintiffs are Hispanic residents, voters, and tax payers of Salem Keizer  
School District 24J. Plaintiffs are residents of school board zones 2, 5, and 7.

2.

The Latino Business Alliance is a Hispanic/Latino organization representing  
Hispanic interest in Salem/Keizer school district zones 2, 5, and 7.

3.

At all times material herein, the Salem Keizer School District 24J (hereinafter “the district”) is the governmental organization providing public education in for the cities of Salem and Keizer Oregon.

4.

Shemia Fagan is the Oregon Secretary of State and is responsible for the supervision of elections to include the election of candidates for school board directors in the Salem Keizer School District.

#### FACTS

5.

The district is administered by a board of seven elected school board directors that lead the district. Salem-Keizer School Board is responsible for the hiring of the superintendent, adopting the annual budget, and negotiating collective bargaining agreements with District staff.

6.

The school board directors represent seven zones in the district. There is one director for each zone. Candidates for school board must live within the zone where they run for election.

7.

In the current voting structure for board positions, everyone who lives in the Salem-Keizer school district votes on all candidates. This system is called “at-large

1  
2 voting” so that elected officials are chosen by the voters of the entire district rather  
3 than from separate zones where they live.

4  
5 8.

6 Although, pursuant to the 2020 Census, the school board is making changes  
7 to the current zones to make sure that each zone has a similar number of people,  
8 the current and proposed zones have a disproportionate number of Hispanic/Latino  
9 persons. Specifically, Zones 2, 5, and 7 are disproportionately Hispanic/Latino.  
10

11  
12 9.

13 The board currently is considering two alternative plans; however, neither of  
14 these plans addresses the disproportionate “at-large voting” procedure used by the  
15 district to elect school board directors.  
16

17  
18 10.

19 Hispanic/Latino population in Zones 2, 5, and 7 is significantly  
20 disproportional to white population in these zones.  
21

22  
23 11.

24 In zone 2 Hispanic/Latino persons are 15,702 out of 37,630 total (41.7%). In  
25 district 5 Hispanic/Latino persons are 14,118 out of a total of 38,093 (37.1%), and  
26 in district 7 Hispanic/Latino persons are 14,840 out of a total of 38,153 (38.9%).  
27  
28



12.

In the district as a whole, Hispanic/Latino persons are 25.5%, but in these three zones they are at or near 40%.

42 USC § 1983 CLAIM

13.

Plaintiffs assert that the system of “at large” voting inhibits or tends to impair Hispanic/Latino voters’ ability to elect their preferred candidates and dilutes Hispanic/Latino voting strength in violation of their federal right pursuant to Section 2 of the Voting Rights Act., 52 U.S.C. §10301 (a) (b) (the VRA).

14.

Section 2 of the VRA states, in part: "No voting qualification or prerequisite to voting or standard practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color..,"

15.

Hispanic/Latino persons voting rights are also being violated pursuant to Oregon law. Oregon has adopted its own version of the VRA in ORS 255.406(1) (a) which states:

///

///

“A qualifying district election may not be conducted in a manner that impairs the ability of members of a protected class to have an equal opportunity to elect candidates of their choice or an equal opportunity to influence the outcome of an election as a result of the dilution or abridgment of the rights of electors who are members of that protected class.”

16.

Hispanic persons living in the aforementioned zones have or will continue to have their voting rights improperly diluted because of the “at-large” method of electing school board directors, in violation of Federal and State law.

WHEREFORE: Plaintiffs seek a judgment of this court,

Declaring the “at large” voting method of electing school board directors violates Section 2 of the Voting Rights Act of 1965, as amended (the VRA), as well ORS 255.406 (1) (a), and,

Entering an order enjoining the Board from employing “at large” voting as a method in future elections and directing the Board and the Secretary of State to administer such elections in a manner that complies with Section 2, of the Voting Rights Act of 1965 and ORS 255.406 (1)(a), and,

///

///

///

1  
2       Awarding plaintiff's costs, disbursements, and attorney fees incurred herein  
3 pursuant to 42 U.S.C. § 1983.  
4

5       For other relief as the Court seems just.  
6

7       October 28, 2022

/s/ James D. Vick

**James D. Vick, OSB No. 72273**

Trial Attorney, Of Counsel

Olsen Daines, PC

3995 Hagers Grove Road SE

Salem, Oregon 97317

Phone 503-540-6100

Fax 503-362-1375

GARRETT HEMANN ROBERTSON P.C.  
P.O. BOX 749, SALEM, OREGON 97308-0749  
STREET ADDRESS: 4895 SKYLINE ROAD S, SALEM, OR 97306  
TELEPHONE: (503) 581-1501 TELEFAX: (503) 581-5891

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

LATINO BUSINESS ALLIANCE; JOSE	)	
GONZALES; DALTAZAR MOLINA,	)	No. 22CV37151
	)	
Plaintiffs,	)	<b>ANSWER AND AFFIRMATIVE</b>
	)	<b>DEFENSES TO COMPLAINT</b>
vs.	)	
	)	<b>Fee Amount: \$0</b>
SALEM KEIZER SCHOOL DISTRICT	)	<b>Fee Authority: ORS 20.140</b>
24J, SHEMA FAGAN, OREGON	)	
SECRETARY OF STATE,	)	
Defendants.		

Defendant Salem Keizer School District 24J (“District”) responds to Plaintiffs’ Latino Business Alliance; Jose Gonzales; Daltazar Molina’s Complaint as follows:

**PARTIES**

1.

The District lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1, and on that basis denies the same.

2.

The District lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2, and on that basis denies the same.

3.

The District admits it is a public body and school district that provides public education to eligible students within its jurisdiction.

4.

The District admits Shemia Fagan is the Oregon Secretary of State. The District further

1 admits that pursuant to ORS 332.118, “[t]he Secretary of State has supervising authority over all  
2 elections conducted by school districts . . .”

3 **FACTS**

4 5.

5 The District admits it maintains a board of seven elected school board directors. The District  
6 further admits that the District’s Board of Directors has many responsibilities, including hiring a  
7 superintendent, adopting an annual budget, and approving collective bargaining agreements.

8 6.

9 The District admits that each of the seven board members represents a zone within the  
10 District. The District further admits that a candidate for District school board seeking nomination  
11 from a zone must be a resident of that zone.

12 7.

13 The District admits that District board member candidates nominated from zones are elected  
14 by an at-large process in compliance with Oregon law.

15 8.

16 The District admits that on or around December 14, 2021, the District Board of Directors  
17 passed a motion to readjust District zone boundaries to divide the District into zones as nearly equal  
18 in population as practicable, in compliance with Oregon law The District denies it is currently  
19 making changes to the zone boundaries approved on or around December 14, 2021. The District  
20 lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations  
21 contained in Paragraph 8, and on that basis denies the same.

22 9.

23 The District admits that on or around December 14, 2021, the District Board of Directors  
24 considered two alternative plans and passed a motion adopting one of the two alternative plans to  
25 readjust District zone boundaries to divide the District into zones as nearly equal in population as  
26 practicable, in compliance with Oregon law. The District admits the Board of Directors’ action on

ANSWER AND AFFIRMATIVE DEFENSES:

Latino Business Alliance, et al. v. Salem Keizer School District et al.



or around December 14, 2021 did not change the District's at-large election process. The District denies the remaining allegations contained in Paragraph 9.

10.

The District denies Paragraph 10.

11.

Upon information and belief, the District admits that in the 2020 Census, 15,702 out of the 37,630 usual residents in Zone 2 self-identified as being of Hispanic, Latino, or Spanish origin, 14,118 out of 38,093 usual residents in Zone 5 self-identified as being of Hispanic, Latino, or Spanish origin, and 14,840 out of 38,153 usual residents in Zone 7 self-identified as being of Hispanic, Latino, or Spanish origin. The District denies the remaining allegations contained in Paragraph 11.

12.

Upon information and belief, the District admits that in the 2020 Census, approximately 25.5% of usual residents in all of the District's zones self-identified as being of Hispanic, Latino, or Spanish origin. The District further admits that in the 2020 Census, approximately 39.3% of usual residents in the aggregate of Zones 2, 5, and 7 self-identified as being of Hispanic, Latino, or Spanish origin. The District denies the remaining allegations contained in Paragraph 12.

#### **42 USC 1983 CLAIM**

13.

The District denies Paragraph 13.

14.

The District admits that Paragraph 14 contains an accurate recitation of an excerpt of 52 U.S.C. § 10301(a), to which no responsive pleading is required.

///

///

15.

The District admits that Oregon has its own Voting Rights Act (ORS 244.400 *et seq.*). The District further admits that Paragraph 15 contains an accurate recitation of an excerpt of ORS 255.405(1)(a), to which no responsive pleading is required. The District denies the remaining allegations in Paragraph 15.

16.

The District denies Paragraph 16.

17.

Except as expressly admitted above, the District denies all factual allegations contained in Plaintiffs' Complaint.

### **FIRST AFFIRMATIVE DEFENSE**

#### **(Failure to State Ultimate Facts)**

18.

Plaintiffs have failed to state ultimate facts sufficient to constitute a claim.

### **SECOND AFFIRMATIVE DEFENSE**

#### **(Oregon Tort Claims Act)**

19.

Plaintiffs' claims against the District are claims against a local public body and/or the employee of a local public body and, as such, any actions available to Plaintiffs are subject to the conditions, limitations, and immunity set forth in the Oregon Tort Claims Act, ORS 30.272, *et seq.*

### **THIRD AFFIRMATIVE DEFENSE**

#### **(Statute of Limitations)**

20.

Plaintiffs' claims are barred by the appropriate statute of limitations.

///

///

**FOURTH AFFIRMATIVE DEFENSE**

**(Notice)**

21.

Plaintiffs have failed to satisfy the notice requirements in ORS 255.424.

**FIFTH AFFIRMATIVE DEFENSE**

**(Exhaustion of Administrative Remedies)**

22.

Plaintiffs have failed to exhaust their administrative remedies under the Oregon Voting Rights Act.

**RESERVATION TO ADD ADDITIONAL AFFIRMATIVE DEFENSES**

The District reserves the right to amend this Answer and assert additional affirmative defenses, claims, or counterclaims as discovery proceeds in this case.

**PRAYER**

WHEREFORE, Defendant District prays:

- a. That all of Plaintiffs' claims against it be dismissed, with prejudice;
- b. That the District be awarded its costs and fees; and
- c. For such other relief as the court deems proper.

DATED this 5<sup>th</sup> day of January, 2023.

**GARRETT HEMANN ROBERTSON P.C.**

*s/ Rebekah R. Jacobson*

Rebekah R. Jacobson

(OSB No. 063024)

[rjacobson@ghrlawyers.com](mailto:rjacobson@ghrlawyers.com)

Elliot R. Field

(OSB No. 175993)

[efield@ghrlawyers.com](mailto:efield@ghrlawyers.com)

Of Attorneys for Salem-Keizer School District

GARRETT HEMANN ROBERTSON P.C.  
P.O. BOX 749, SALEM, OREGON 97308-0749  
STREET ADDRESS: 4895 SKYLINE ROAD S, SALEM, OR 97306  
TELEPHONE: (503) 581-1501 TELEFAX: (503) 581-5891

**CERTIFICATE OF SERVICE**

I hereby certify that I caused to be served the foregoing **ANSWER AND AFFIRMATIVE DEFENSES** on the date indicated below,

☒ Via First-Class Mail with postage prepaid  
☒ Via Electronic Filing  
☒ Via Email  
☐ Via Hand Delivery  
☐ Via Overnight Delivery

to the following person(s) a true copy thereof, contained in a sealed envelope (if other than by facsimile transmission), addressed to said person(s) at their last known addresses indicated below:

S. Matthew Lind  
Olsen Daines, PC  
3995 Hagers Grove Road SE  
P.O. Box 12829  
Salem, OR 97317  
OSB No. 72273  
Phone: (503) 540-6100  
Email: [mlind@olsendaines.com](mailto:mlind@olsendaines.com)  
*Of Attorneys for Plaintiff*

DATED this 5<sup>th</sup> day of January, 2023.

GARRETT HEMANN ROBERTSON P.C.

*s/ Rebekah R. Jacobson*

Rebekah R. Jacobson  
(OSB No. 063024)  
[rjacobson@ghrlawyers.com](mailto:rjacobson@ghrlawyers.com)  
Elliot R. Field  
(OSB No. 175993)  
[efield@ghrlawyers.com](mailto:efield@ghrlawyers.com)  
Of Attorneys for Salem-Keizer School District

CERTIFICATE OF SERVICE:

Latino Business Alliance, et al. v. Salem Keizer School District et al.

STATE OF OREGON  
Marion County Circuit Court

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION  
100 High St. NE Salem Oregon 97301

MAR 01 2023

☆ FILED ☆

Latino Business Alliance; Jose Gonzales;  
Daltazar Molina

Case No: 22CV37151

Plaintiff

v.

**LIMITED JUDGMENT OF  
DISMISSAL**

Salem Keizer School District 24J; Shemia  
Fagan; Oregon Secretary of State

Defendant

**THIS CASE IS DISMISSED** { ☐ with ☒ without } prejudice against the following parties:

Oregon Secretary of State

No costs and fees are awarded to any party.

March 1, 2023

  
Daniel J. Wren

\_Verified Correct Copy of Original 3/1/2023.\_